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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS-2013-0045]

RIN 0579-AD82

Importation of Fresh Bananas From the Philippines Into Hawaii and U.S. Territories

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning the importation of fruits and vegetables to allow the importation of fresh bananas from the Philippines into Guam, Hawaii, and the Northern Mariana Islands. As a condition of entry, the bananas will have to be produced in accordance with a systems approach that includes requirements for importation of commercial consignments, monitoring of fruit flies to establish low-prevalence places of production, harvesting only of hard green bananas, and inspection for quarantine pests by the national plant protection organization of the Philippines. The bananas will also have to be accompanied by a phytosanitary certificate with an additional declaration stating that they were grown, packed, and inspected and found to be free of quarantine pests in accordance with the proposed requirements. This action will allow the importation of bananas from the Philippines into Guam, Hawaii, and the Northern Mariana Islands while continuing to protect against the introduction of plant pests.

DATES: Effective [Insert date 30 days after date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Mr. George Apgar Balady, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1236; (301) 851-2240.

SUPPLEMENTARY INFORMATION:

Background

The regulations in "Subpart–Fruits and Vegetables" (7 CFR 319.56-1 through 319.56-71, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests within the United States.

On January 28, 2014, we published in the Federal Register (79 FR 4410-4414, Docket No. APHIS-2013-0045) a proposal¹ to amend the regulations to allow the importation of bananas from the Philippines into Guam, Hawaii, and the Northern Mariana Islands. We also prepared a pest risk assessment (PRA) entitled “Importation of Banana, *Musa* spp., as Fresh, Hard Green Fruit from the Philippines to Guam, Hawaii, and the Northern Mariana Islands” (January 2013). The PRA assesses the risks associated with the importation of fresh bananas from the Philippines into Guam, Hawaii, and the Northern Mariana Islands. Based on the information contained in the PRA, we prepared a risk management document (RMD) that recommends appropriate mitigation measures needed beyond the port-of-entry inspection requirements.

Based on the recommendations of the RMD, we proposed to allow the importation of bananas from the Philippines into Hawaii and U.S. Territories only if they were produced in accordance with a systems approach. The systems approach we proposed included requirements for:

¹ To view the proposed rule, supporting documents, and the comments we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0045>.

- Registration, monitoring, and oversight of places of production;
- Trapping for the fruit flies Bactrocera spp. to establish low-prevalence places of production;
- Covering bananas with pesticide bags during the growing season;
- Harvesting only of hard green bananas;
- Requirements for culling, safeguarding, and identifying the fruit; and
- Inspection by the national plant protection organization (NPPO) of the Philippines for quarantine pests.

We also proposed to require bananas from the Philippines to be accompanied by a phytosanitary certificate with an additional declaration stating that the bananas were grown, packed, and inspected in accordance with the proposed requirements. These are the same conditions under which bananas from the Philippines were already authorized for importation into the continental United States.

We solicited comments on the proposed rule for 60 days ending March 31, 2014. We received 46 comments from private citizens by the close of the comment period. Three of the commenters supported the proposed rule. The issues raised by the other commenters are discussed below by topic.

General Comments

The majority of commenters stated that the Animal and Plant Health Inspection Service (APHIS) should prohibit the importation of bananas from other countries into Hawaii and U.S. territories, as locally grown bananas are plentiful or because importing commodities from other countries would conflict with local food initiatives. Many commenters expressed concerns that the importation of lower-priced bananas from other countries would make it more difficult for

local producers to compete within the market. Several commenters objected to using tax dollars to implement and enforce the proposed regulations rather than using them to support local growers.

Such prohibitions would be beyond the scope of APHIS' statutory authority under the Plant Protection Act (7 U.S.C. 7701 et seq., referred to below as the PPA). Under the PPA, APHIS may prohibit the importation of a fruit or vegetable into the United States only if we determine that the prohibition is necessary in order to prevent the introduction or dissemination of a plant pest or noxious weed within the United States. APHIS does not have the authority to restrict imports solely on the grounds of potential economic effects on domestic entities that could result from increased imports. Current Hawaiian banana production provides considerable banana supply to the Hawaiian market, however it is apparently not enough to satisfy the demand for banana consumption in Hawaii. Any impact of the rule on U.S. banana producers in Hawaii and U.S. territories is likely to be small. To the extent that new imports of bananas from the Philippines arrive in Hawaii and U.S. territories, consumers will benefit from this additional source of fresh bananas. In addition, the importation of Philippine bananas is expected to add jobs in the produce shipping and marketing industry within Hawaii and the Territories, which would help offset any potential losses. Tax dollars would not be used to support the proposed regulations. The importation of Philippine bananas would require the NPPO of the Philippines to enter into a trust fund agreement with APHIS. Under the trust fund agreement, the NPPO of the Philippines would be required to pay in advance all estimated costs that APHIS expects to incur in providing inspection services in the exporting country. This includes administrative expenses such as inspector salaries and travel expenses. The cost of inspecting shipments at U.S. ports of entry is recovered through user fees.

Additionally, as a signatory to the World Trade Organization Agreement on Sanitary and Phytosanitary Measures, the United States has agreed that any prohibitions it places on the importation of fruits and vegetables will be based on scientific evidence, and will not be maintained without sufficient scientific evidence. The blanket prohibitions requested by the commenters would not be in keeping with this agreement.

One commenter suggested that we should allow bananas from the Philippines to be imported into Alaska, where there is no local production, rather than importing bananas into Hawaii and the U.S. territories.

Under § 319.56-58, bananas from the Philippines are already allowed into the continental United States, including Alaska.

One commenter expressed frustration that bananas grown in Hawaii could not be exported, while bananas grown in other countries could be imported into Hawaii.

APHIS has an export staff to aid growers in exporting their agricultural commodities to other countries. Contact information for this staff is available on the APHIS Web site at <http://www.aphis.usda.gov/> under the Plant Health tab.

Monitoring and Oversight

Under paragraph (b)(3), the NPPO of the Philippines would be required to retain all forms and documents related to export program activities in groves and packinghouses for at least 1 year and, as requested, provide them to APHIS for review. Such forms and documents include, but are not limited to, fruit fly trapping and inspection records. One commenter pointed out that the International Plant Protection Convention (IPPC) requires that records be retained for at least the 2 previous years or as long as necessary to support the export program from areas of low pest prevalence.

Requiring the NPPO of the Philippines to retain records for 1 year is consistent with our recordkeeping requirements for all offshore phytosanitary mitigation programs. From past experience, retaining records for longer than 1 year has provided little value in traceback efforts as any issues that may occur are generally related to the current growing season. While we do not require NPPO's to retain records for longer than 1 year, this does not pertain to APHIS pest interception records. Those records are maintained for the life of the export program.

One commenter stated that certain growers may import bananas from smaller growers to meet consumer demand and suggested that production areas be canvassed and shipments inspected to ensure that bananas not of approved varieties or stage of maturity are prohibited importation.

Just one interception of a target pest would be enough to cause APHIS to suspend a commercial import program until APHIS and the Philippine NPPO agree that the pest eradication measures taken have been effective and that the pest risk has been eliminated. Because bananas from non-registered places of production present a greater pest risk than does fruit grown in registered places of production, we believe that it is unlikely that the growers and packers in a registered place of production would allow their entire export operation to be jeopardized by allowing potentially infested fruit from non-registered places of production to be commingled with their export-quality fruit. In addition to that purely economic disincentive, APHIS and Philippine NPPO inspectors will also be present in the places of production and packinghouses during the shipping season to ensure that all requirements of the regulations are being observed. That includes ensuring that only green bananas are packed for export. There are no restrictions on the variety of bananas that can be imported from the Philippines under the regulations.

The commenter also suggested that shipments from noncompliant production areas be restricted until the production areas are determined to be in compliance with the regulations per the NPPO and APHIS, and that records be kept regarding banana varieties and stage of maturity.

The NPPO of the Philippines would be responsible for enforcing the requirements in the operational workplan, including maintaining records of growers and packers and periodically conducting inspections or audits to ensure that growers are producing bananas in accordance with the systems approach. If the NPPO of the Philippines finds that a place of production or packinghouse is not complying with the regulations, no fruit from the place of production or packinghouse is eligible for export to the United States until APHIS and the NPPO of the Philippines conduct an investigation and appropriate remedial actions have been implemented.

Inspection

The majority of commenters expressed concern regarding the potential for Philippine bananas to act as a pathway for the introduction of insect pests and diseases into Hawaii and the U.S. territories.

Two commenters expressed concern about the ability to detect diseases in their incubation period and control them following establishment.

APHIS has seldom intercepted pests on commercial bananas when produced under a systems approach including bagging bananas after flower drop with plastic bags impregnated with pesticides and harvest of green bananas. Therefore, based on this track record, we are confident the NPPO of the Philippines can effectively oversee the application of the proposed systems approach to importing Philippine bananas to Guam, Hawaii, and the Northern Mariana Islands. We evaluated the potential for diseases to follow the pathway of bananas from the Philippines into Hawaii and the U.S. territories in our PRA and determined that the only disease

of concern that could follow that pathway is Ralstonia solanacearum. However, based on the requirements of the proposed systems approach, such as bagging the inflorescence at the bending stage, which prevents access to the fruit by disease vectors, and standard industry procedures such as disinfecting tools, we determined that bananas from the Philippines are not likely to present a risk of introducing R. solanacearum to Hawaii and the U.S. territories. In addition, APHIS has no record of any interceptions of R. solanacearum on banana imports from any country. Therefore, because diseases are not likely to follow the pathway of bananas, the potential latency of disease symptoms is not an issue.

Several commenters expressed concern that Hawaii and the U.S. territories do not have the resources necessary to implement and enforce the proposed regulations, which would increase the risk of accidental or incidental introduction of quarantine pests and diseases.

As stated previously, any required oversight by APHIS in the Philippines will be paid for using monetary support from the industry through establishment of a trust fund. Inspection at the port of arrival will be conducted by APHIS employees in conjunction with Customs and Border Protection, and will be funded by user fees. Hawaii and the U.S. territories will not have any implementation or enforcement responsibilities for the proposed regulations.

Several commenters called for increased inspections of bananas from the Philippines to mitigate pest risk. One commenter stated that, because the PRA identified five times the number of significant quarantine pests for Guam, Hawaii, and the Northern Mariana Islands than were identified in the PRA prepared for the mainland United States, the proposed systems approach should require a stricter inspection process. However, the commenter did not elaborate on what aspect of the inspection process could be improved. One commenter stated that large inspection

fees should be charged for imports, including banana imports, in order to prevent the importation of pests and diseases.

As stated previously, APHIS seldom intercepts pests on commercially produced bananas produced under the proposed systems approach. Therefore, APHIS considers the multiple layers of safeguards sufficient to mitigate the risk posed by the quarantine pests listed in the PRA. These mitigations are based on those currently used in Central and South America for export of bananas to the United States. User fees are charged commensurate with the cost of inspecting imports. We are unable to charge more for inspecting specific goods from certain countries.

One commenter asked why we do not have a set sampling rate established in § 319.56-58(h)(2). The commenter expressed concern that, in the absence of a current sampling rate, monitoring of the procedures required of the Philippine NPPO by APHIS will be insufficient.

Rather than establishing a sampling rate within the regulations, APHIS has determined that setting a sampling rate within the operational workplan provides greater flexibility in the event that the sampling rate must be changed in the future. For most imported fruit, our sampling regime is designed to detect pest infestations if the pest is present in more than 1 or 2 percent of sampled fruit. This corresponds to sampling 150 to 300 fruit.

PRA and RMD

One commenter expressed concern that varieties of banana from the Philippines would be imported for which no risk analysis has been conducted or risk mitigations determined due to lack of published data.

The PRA considered the risks associated with the importation of all banana varieties.

Several commenters noted that the PRA does not assess the risk that quarantine pests may pose to endangered banana or other species found within Hawaii.

The PRA found that no pests were likely to follow the pathway of mature green bananas because the stage of maturity at harvest and several other standard production and post-harvest practices, as detailed in the PRA, were determined to be adequate mitigations. Because no pests were likely to follow the pathway, no further analysis was conducted.

Several commenters referenced pests that have become established in Hawaii or the U.S. territories as a result of the importation of commodities. In the RMD, we stated that between 3.8 and 4 million metric tons of bananas were imported into the United States from Central and South America each year between 2003 and 2007, however, only 1,400 actionable quarantine pests were intercepted on imported bananas in that time period. One commenter stated that citing the small number of pest interceptions on bananas from Central and South America versus the volume of shipments is misleading given that the number of pests that remained undetected would be correspondingly larger for larger shipments.

Most pest interceptions, specifically fruit fly, occur in fruit seized in passenger baggage rather than in commercial imports. Fruit in passenger baggage will continue to be prohibited under this rule. While the commenter may be correct that larger shipments could potentially contain larger numbers of undetected quarantine pests, just one interception of a target pest in a commercial shipment would be enough to cause APHIS to suspend a commercial import program. This was the case for the suspension of the Spanish clementine import program when a very small number of live Mediterranean fruit fly (Ceratitis capitata) larvae were discovered in a shipment. Importations of clementine from Spain did not resume until a review was conducted and pest mitigations strengthened. Therefore, we consider the multiple layers of safeguards in the proposed rule sufficient to mitigate the risk posed by the quarantine pests listed in the PRA.

One commenter stated that all bananas grown in production areas should be produced from tissue culture in order to deter disease and asked whether this is currently the case in the Philippines. The commenter further stated that, since tissue culture for specialty bananas may not be available, those banana varieties may need to be restricted from importation until tissue culture is viable.

The Philippines has indicated that producing bananas using tissue culture is part of their standard industry practices.

The PRA lists Imperata cylindrica L. as a Federal noxious weed present in the Philippines, but that is not likely to follow the pathway of Philippine bananas due to production procedures and post-harvest processing requirements, such as bagging of bananas during the growing season and the use of high-pressure water sprays. One commenter stated that these measures are insufficient to prevent introduction of the weed to Hawaii and suggested that bananas grown in fields near I. cylindrica L. be inspected and safeguarded from contamination with I. cylindrica L. seeds.

Paragraph (b)(1) requires that the Philippine NPPO conduct inspections of places of production beginning 3 months before harvest and throughout the shipping season to ensure compliance with the regulations. In addition, APHIS may also conduct inspections of production areas as necessary to ensure compliance. This inspection regimen coupled with the use of bagging and high-pressure water sprays makes it highly unlikely that seeds of I. cylindrical L. could contaminate shipments of Philippine bananas. Therefore, the PRA concluded the weed was highly unlikely to follow the pathway.

One commenter raised concerns about the chemicals used in the Philippines to treat bananas in the field. The commenter stated that these chemicals are illegal in the United States

and questioned whether the field inspectors in the Philippines would actually test the bananas for disease and pesticide residues prior to exportation. A second commenter raised concerns about the quality of life of Filipino field workers and suggested revisions to the proposed systems approach to ensure their safety and wellbeing, particularly when handling harmful pesticides.

While the United States does not have direct control over pesticides that are used on food commodities such as bananas in other countries, there are regulations in the United States concerning the importation of food to ensure that commodities do not enter the United States containing illegal pesticide residues. Through section 408 of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency (EPA) has the authority to establish, change, or cancel tolerances for food commodities. These EPA-set tolerances are the maximum levels of pesticide residues that have been determined, through comprehensive safety evaluations, to be safe for human consumption. Tolerances apply to both food commodities that are grown in the United States and food commodities that are grown in other countries and imported into the United States. The EPA tolerance levels are enforced once the commodity enters the United States. Chemicals such as DDT that are banned in the United States do not have tolerances on food commodities. Federal Government food inspectors are responsible for monitoring food commodities that enter the United States to confirm that tolerance levels are not exceeded and that residues of pesticide chemicals that are banned in the United States are not present on the commodities. Tolerance levels for all chemicals that are acceptable for use on bananas may be found in EPA's regulations in 40 CFR 180.101 through 180.2020. Tolerance information can also be obtained at <http://www.epa.gov/pesticides/food/viewtols.htm>. Pesticide use in the Philippines is regulated through the Fertilizer and Pesticide Authority (FPA). Under this authority, all pesticides are required to be registered and all pesticide handlers must be

licensed. In addition, the FPA restricts or bans the use of any pesticide when evidence shows that the pesticide is an imminent hazard to crops, fish, livestock, the environment, or public health.

One commenter stated that repeated use of pesticides and bait sprays may increase pest resistance and that the operational workplan must include a requirement to review the long-term efficacy of pesticides.

APHIS uses information based on studies conducted by the EPA to determine the appropriate chemical and dosage requirements for use against quarantine pests. It is outside the scope of APHIS' mission to review pesticide resistance.

One commenter pointed out inconsistencies between the PRA and RMD and expressed concern regarding the omission of certain standard industry practices from the requirements in the RMD. The commenter stated that removing standard industry practices effectively dismantles the systems approach, making the following steps in the systems approach less effective. To address this concern, the commenter suggested we explain that the standard industry practices outlined in the PRA remain in place for bananas from the Philippines and that we edit the RMD to reflect this clarification.

APHIS does not require industry standard practices that are not technically and scientifically justified as a way to prevent or remove pests. APHIS omitted certain standard industry practices from the requirements in the RMD because those practices are designed to produce marketable fruit rather than to remove plant pests. Although we are not requiring those practices, they are routinely conducted in the Philippines.

One commenter pointed out that the references used for the PRA did not include more recent publications important for analyzing the potential for establishment of Bactrocera musae

(banana fruit fly) in Hawaii. The commenter cited one publication in particular which indicated that banana fruit fly may oviposit in bananas earlier than the mature green stage, necessitating mitigations earlier than is common practice, and that they may demonstrate varietal host preferences.

Although we recognize the commenter's concern, our pest interception data does not indicate a higher risk of Bactrocera spp. fruit fly infestations in bananas than Anastrepha spp. fruit fly infestations. In addition, according to highly regarded scientific sources referenced in the PRA, the banana fruit fly is not present in the Philippines. However, as an additional precaution, the fruit is required to be bagged as soon as the blossom falls, while the fruit is still very small. The banana will remain in the pesticide-impregnated bag for months until harvest. Therefore, it is very unlikely that the banana will be subject to fruit fly infestation during the growing season. APHIS will also require sampling and fruit cutting to ensure the efficacy of the systems approach.

One commenter referred to table 6 in the PRA and asked whether the column header "Quarantine pest" refers to whether or not Hawaii and the U.S. territories consider the listed pest a State quarantine pest. If so, the commenter stated that APHIS should check the responses with respect to Hawaii to ensure accuracy.

The PRA was drafted with respect to pest status in Hawaii and the U.S. territories. Therefore, the quarantine pests referred to are those that are considered quarantine pests with respect to those States.

Fruit Fly Mitigations

One commenter opposed the importation of hard green bananas from the Philippines, testifying to the occurrence of fruit fly attacks on hard green bananas in the aftermath of a

typhoon. Due to the frequency of typhoon activity in the Philippines, the commenter expressed concern that the risk of introducing fruit flies into Hawaii and the U.S. territories increases with the importation of bananas from the Philippines even when the bananas have been harvested at the hard green stage.

Under paragraph (b) of § 319.56-3, all consignments of fruits and vegetables are subject to inspection at the port of entry. Inspectors will monitor for all pests listed in the PRA.

Harvesting bananas at a hard green stage (i.e., bananas with no yellow or green color break) is a standard industry practice for banana production in Central and South America, the Philippines, Hawaii, and most of the world because ripe bananas are more likely to be infested by fruit flies. Bananas will be inspected at the port of entry to verify that they are at the proper stage of ripeness. APHIS interception records going back to 1983 indicate that there have been no interceptions of fruit flies in commercially produced bananas from Central and South America. However, two additional mitigations (fruit fly trapping and population control) were added specifically for the Philippine bananas program to address fruit fly risk. If a typhoon were to occur during the growing season, the likelihood is that the bags required to be placed over the fruit would not stay in place. This would disqualify such fruit from importation into the United States as it would no longer have been produced in accordance with the systems approach. In addition, even if fruit flies were to infest the fruit and the fruit were not immediately culled, the NPPO would cull such fruit during inspection due to the visible damage done by fruit fly feeding. Finally, as mentioned previously, APHIS requires sampling and cutting of fruit to detect pests in shipments. These measures provide an added measure of protection against the introduction and establishment of fruit flies.

Two commenters expressed concern that APHIS would stop requiring fruit fly trapping after 2 years of inspections with no interception of fruit fly larvae. One commenter asked how APHIS would monitor changes in the fruit fly population in the Philippines if we no longer required trapping. The second commenter stated that 2 years of trapping data are not representative of future fruit fly populations when pesticide applications are not standardized between production areas and when production areas and the varieties of bananas they grow may change as well. The commenter further suggested using the bait sprays as a way for areas that do not have low prevalence for fruit flies to attain low prevalence or requiring importation only from pest free areas.

As stated in the proposed rule, we do not want to impose trapping requirements if they are not justified by the presence of fruit fly larvae in Philippine bananas. This is in accordance with IPPC standards, which require that phytosanitary measures represent the least restrictive measures available and result in the minimum impediment to the international movement of people, commodities, and conveyances. Bananas are poor hosts of fruit flies, especially when harvested green. In addition, we have never intercepted fruit flies in shipments of commercial bananas from Central or South America where the same systems approach is in place. Although Bactrocera spp. fruit flies have been intercepted in bananas found in passenger baggage, these interceptions were very rare and they did not originate from the Philippines. The only fruit fly known to infest green bananas is the banana fruit fly, which as stated previously, is not present in the Philippines. APHIS does not require fruit fly trapping for bananas from Central or South America and we are requiring trapping for 2 years within the Philippines only as an abundance of caution. The primary mitigation methods are the poor host status of green bananas and the pesticide-impregnated bagging. Therefore, we do not believe it is necessary to continue to

require fruit fly trapping in the absence of fruit fly larvae after 2 years. If fruit flies are discovered during sampling of commercial fruit, the export program will be suspended and trapping or other, equivalent measures, may be reinstated.

One commenter stated that, because of the prevalence of fruit fly species in Hawaii, the banana fruit fly could remain undetected there when it would likely be easily detected and eradicated in the continental United States.

While it is the case that a number of fruit fly species are present in Hawaii, this is not a sound scientific and technical justification for requiring permanent fruit fly trapping in the Philippines. In the proposed rule, we proposed to require the NPPO of the Philippines to monitor the bananas for pests, and if we have any problems in the first 2 years of the program, we may consider extending the trapping requirement.

Bagging Requirements

In the proposed rule, we proposed that each place of production would have to follow a pest management program specified by the NPPO of the Philippines to reduce populations of quarantine pests. This management program would include applying pesticides to reduce pest populations and bagging bananas after flower drop with plastic bags impregnated with pesticides. One commenter stated that the time between flower removal and bagging may vary with different banana varieties, which may allow for longer exposure times to the banana fruit fly for varieties that may be preferred hosts of the banana fruit fly. The commenter also asked whether bagging is done for all banana varieties when the inflorescence is at the bending stage, which is included in the planned mitigations for Bugtok and Moko banana varieties per the PRA.

Because the growing period of commercial bananas is longer than the life cycle of fruit flies within the Philippines, in the unlikely event that fruit are bagged after fruit fly infestation,

larvae would have emerged prior to harvest. The presence of fruit flies in the bags along with larval emergence holes would disqualify such bananas from importation.

Post-harvest Processing

Citing pest interception data, one commenter stated that the cleaning process to remove surface pests has not been effective in bananas from Central and South America. The commenter indicated that this may be a particular problem with pests that are known disease vectors. The commenter suggested that utilizing standard industry practices within the Philippines, such as using aluminum sulfate, may be more effective as a mitigation.

We disagree with the commenter that the cleaning process to prevent surface pests has been ineffective. The number of pests intercepted in shipments of bananas from Central and South America has been very low given the volume of imported bananas from those areas. If, however, we find that a significant number of surface pests are arriving on bananas from the Philippines, we will either suspend the import program or amend the required mitigation measures to address the issue.

Phytosanitary Certificate

One commenter stated that phytosanitary certificates from the Philippines are not effective in preventing the introduction of foreign pests and diseases because fake phytosanitary certificates can be easily purchased in Manila.

The Philippines is a signatory to the IPPC, like the United States. As a signatory to the IPPC, one of the Philippines' responsibilities is to issue phytosanitary certificates with accurate and complete information. We have no reason to doubt that the Philippines will do this.

Economic Analysis

Two commenters objected to the number of unknowns in the economic analysis of the proposed rule, including the volume of bananas to be imported. The commenters stated that, unlike the continental United States, Hawaii in particular is a large producer of bananas. Therefore, the proposed rule could have unforeseen economic impacts on Hawaiian growers.

The information contained in the economic analysis was based on the best information available. As stated previously, APHIS does not have the authority to restrict imports solely on the grounds of potential economic effects on domestic entities that could result from increased imports. Current Hawaiian banana production provides considerable banana supply to the Hawaiian market, however it is apparently not enough to satisfy the demand for banana consumption in Hawaii. Any impact of the rule on U.S. banana producers in Hawaii and U.S. territories is likely to be small. To the extent that new imports of bananas from the Philippines arrive in Hawaii and U.S. territories, consumers will benefit from this additional source of fresh bananas. In addition, part of APHIS' examination of the economic impact of a regulation is to determine the regulation's net benefits and costs to U.S. consumers as well as U.S. producers.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, without change.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 604, we have performed a final regulatory flexibility analysis, which is summarized below, regarding the economic effects of this rule on small entities. Copies of the full analysis are available on the Regulations.gov Web site (see footnote 1

in this document for a link to Regulations.gov) or by contacting the person listed under FOR FURTHER INFORMATION CONTACT.

Commercial production of bananas in the United States takes place in Hawaii, where most if not all of the banana farms are small entities. Currently, about 4.1 million metric tons (MT) of bananas are imported into the United States (including the State of Hawaii) every year. In 2011, Hawaii's banana harvest totaled about 7,900 MT.

We do not have information at this point on the quantity of bananas that the Philippines expects to ship to the State of Hawaii or to the U.S. territories, or the quantity and origin of bananas already imported into these destinations. However, Hawaii as well as the U.S. territories, already import bananas from other places since the volume of banana consumption is greater than their production. In general, the quantity of U.S. imports from the Philippines is expected to be relatively insignificant, equivalent to about 0.05 percent of U.S. imports from other countries. What percent would go to Hawaii depends on the demand from the consumers in the State of Hawaii and in the other U.S. territories. Consumers in Hawaii and the U.S. territories would benefit from the additional source of fresh bananas, which are of similar quality as the domestic ones.

Executive Order 12988

This final rule allows bananas to be imported into Guam, Hawaii, and the Northern Mariana Islands from the Philippines. State and local laws and regulations regarding bananas imported under this rule will be preempted while the fruit is in foreign commerce. Fresh fruits are generally imported for immediate distribution and sale to the consuming public, and remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. No retroactive effect

will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment (EA) and finding of no significant impact were prepared in 2012 for a final rule for importation of bananas from the Philippines into the continental United States. The EA provided a basis for the conclusion that the importation of bananas from the Philippines into the continental United States, under the conditions specified in that rule, would not have a significant impact on the quality of the human environment. APHIS reviewed the proposal to import bananas from the Philippines into Guam, Hawaii, and the Northern Mariana Islands under the conditions specified in this rule, and determined that this will not have a significant impact on the quality of the human environment. APHIS prepared an amended finding of no significant impact, and the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The 2012 EA and amended finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 et seq.); (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500-1508); (3) USDA regulations implementing NEPA (7 CFR part 1b); and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The EA and amended finding of no significant impact may be viewed on the Regulations.gov Web site (see footnote 1). Copies of the EA and amended finding of no significant impact are also available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call

ahead on (202) 799-7039 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under FOR FURTHER INFORMATION CONTACT.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the information collection or recordkeeping requirements included in this final rule, which were filed under 0579-0415, have been submitted for approval to the Office of Management and Budget (OMB). When OMB notifies us of its decision, if approval is denied, we will publish a document in the Federal Register providing notice of what action we plan to take.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this rule, please contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851-2727.

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we are amending 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a;
7 CFR 2.22, 2.80, and 371.3.

2. Section 319.56-58 is amended as follows:

a. The introductory text is revised;

b. In paragraph (c), the date “February 9, 2015” is removed and the date “November 10, 2016” is added in its place;

c. In paragraph (h)(2), in the second sentence, the words “introductory text of this section” are removed and the words “operational workplan required by paragraph (a)(1) of this section” are added in their place; and

d. In the OMB citation at the end of the section, the words “number 0579-0394” are removed and the words “numbers 0579-0394 and 0579-0415” are added in their place.

The revision reads as follows:

§ 319.56-58 Bananas from the Philippines.

Bananas (Musa spp., which include M. acuminata cultivars and M. acuminata x M. balbisiana hybrids) may be imported into the continental United States, Guam, Hawaii, and the Northern Mariana Islands from the Philippines only under the conditions described in this section.

* * * * *

Done in Washington, DC, this 6th day of October 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014-24246 Filed 10/09/2014 at 8:45 am; Publication Date: 10/10/2014]